

REMARKS

The Examiner, in the final rejection, has again rejected claims 1, 8 and 9 under 35 USC § 103(a) as being unpatentable over Zander and dotphoto.com for the same reasons previously discussed in the previous official action.

In this regard, the Examiner, at page 5 of the official action, has acknowledged that the combination of Zander and dotphoto.com does not specifically disclose and teach that the customer and/or third party having the ability for replacing an order with a service provider for at least one good and/or service with respect to said image on said photosensitive media associated using said electronic image prior to said service provider receiving said photosensitive media.

The Examiner then goes on to argue that third parties have the ability for placing orders using said electronic image prior to said service provider receiving the photosensitive media. In this regard, the Examiner refers to the abstract, column 1 lines 21-24; column 2 lines 37, 38 and figures 1-3. The Examiner goes on to state "Please note and as taught by Leidig and Shiota, a hybrid camera will provide the method to permit the customer to use the image by calling up the image from memory – prior to said service provider receiving said photosensitive media".

Applicants respectfully submit that the Shiota reference does not teach or suggest the ability for ordering of goods or services prior to receipt of the high resolution image and/or the photosensitive media as set forth in independent claims 1, 8 and 9. The abstract of Shiota merely references the providing of a network service for ordering of goods or services. As set forth in column 1 lines 21-28, a customer can order a print even when the customer is staying at home or in an office. However, this does not teach or suggest the association of an electronic low resolution image with a higher resolution image or an image provided on a photosensitive media as taught and claimed by Applicants. By the use of the electronic low resolution image, orders are able to be placed at a much earlier time in a much more efficient and convenient manner as opposed to the prior art. With respect to photosensitive media as set forth in claim 1, the photosensitive media does not need to be sent to the lab until all the images have been captured thereon. With respect to electronic captured images, only the low resolution images need be forwarded to a third party or service provider which

allows the quick and easy transmission of images sufficient to allow individuals to decide whether or not to place an order with respect to the high resolution images to be provided to the service provider at a later point in time. This is not taught or suggested by any of the cited references.

The last passage referred to by the Examiner at column 2 lines 37-38 and Figure 1, merely disclose how the images are obtained for placement on the system. In particular, a film scanner at the laboratory is used to obtain the images. Alternatively, the images are obtained from a digital camera by a customer. However, this passage does not teach or suggest the capturing of an electronic low resolution image and using that image for placing an order or sharing and then later providing the high resolution or photosensitive media from which the images are made.

The statement by the Examiner that Leidig and Shiota discloses a method to permit the customer to use the image by calling up the image from memory prior to the service provider receiving the photosensitive media, is not based on any teaching or suggestion in the cited references. Neither Shiota nor Leidig, teach or suggest the ability to order images prior to receipt of the photosensitive media or the high resolution image as taught and claimed by Applicants. To make the statement that these references could be used to provide such is not based on any teaching or suggestion in the prior art, but instead, Applicants respectfully submits, is based on impermissible hindsight reconstruction. There is no support to the statement that it would be obvious to one of ordinary skill in the art to arrive at the invention, there must be some specific teaching or suggestion to do so. Clearly the prior art fails to teach or suggest the forwarding of appropriate information prior to the service provider receiving sufficient information by which the products may be produced. The prior art discloses that the high resolution or photosensitive media is in hand or is contemporaneously received when the order is received. Accordingly, Applicants respectfully submit that the prior art does not teach or suggest the invention as taught and claimed by Applicants.

The remaining claims depend at least ultimately upon the independent claims 1, 8 and 9 and therefore are patentably distinct for reasons previously discussed. Further, many of these claims include additional features not taught or suggested by the prior art. For example, with respect to claim 2, additional data may comprise data base location at which said order may be

electronically accessed by the service provider for determining if additional orders exist. Thus, the information that is provided to the service provider is not necessarily the order with the media, but a location at which where the service provider may access to determine if there's waiting orders. The prior art fails to teach or suggest this.

With regard to dependent claim 3 which is also dependent upon independent claim 1, this claim includes the limitation that information is provided to the service provider that images have been forwarded to a third party for potential placement of an order. Thus, at the time the service provider receives the images, the provider has been informed that information has already been sent to a third party with regard to the possibility of placing an order. Here again nowhere is it taught or suggested to do so in the prior art. The dotphoto.com reference merely discloses the sharing of images that already exist on the site. Page 5 merely identifies that images can be obtained by uploading, or alternatively, through the use of film, that is sent in through mailers. However, there is no teaching or suggestion of providing both electronic and photosensitive media containing the same images and are related to each other as taught and claimed by Applicants. The e-mailing as set forth in dotphoto.com merely describes ways that images can be shared that have already been placed on the web site. There is no teaching or suggestion that images have already been forwarded to a third party for potential placement of orders.

Further, again, there is no teaching or suggestion as taught in claim 4 of providing e-mail address of a third party advising that images have already been sent. The e-mail addresses provided in dotphoto.com are for sending of the image in the future, not in the past.

In summary, Applicants respectfully submit that the claims in their present form are in condition for allowance and such action is respectfully request.

Respectfully submitted,



Attorney for Applicant(s)

Registration No. 27,370

Frank Pincelli/phw
Rochester, NY 14650
Telephone: 585-588-2768
Facsimile: 585 -477-4646